

20160050
William Butler
Mayko Matos

On December 3, 2016, officers pulled over a car, allegedly because the license plate had been bent to avoid being read by automatic license plate readers. Once the car was stopped, officers noticed an unlit marijuana cigarette in the ashtray. They removed the man from his car, frisked him, and brought him to the precinct. At the precinct, he was asked to remove his jewelry. He refused, and officers forcibly held him while others removed his jewelry.

Once the jewelry was removed, according to the man and one of the officers, Sergeant Butler ordered officers to search the man's anus and genitals. The officers pulled down the man's pants, and PO Matos placed his hand inside the man's underwear, and according to a witness officer, PO Matos "put his hand in his underwear to check underneath his testicles" and then moved his hand, under the man's underwear, to the back and put his hand "into a blade and just going up in between the cheeks." The witness officer testified that it was standard procedure in the precinct to strip search everyone who was arrested, and that normally the officers simply ordered people they arrested to strip nude and squat, but that the man was "combative" so he was forcibly strip-searched.

Sergeant Butler and PO Matos both testified that no strip search took place.

Strip-searching every person arrested as a matter of course is illegal, and was the subject of a major CCRB policy recommendation in the early 2000s, [leading the NYPD to claim that it trained officers to stop the practice in 2004](#).

The CCRB found that Sergeant Butler conducted an unlawful strip search and that evidence indicated both officers lied about their conduct.

As of March 15, 2022, the NYPD had not disciplined either officer. Sergeant Butler has been promoted to Lieutenant.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nathaniel Flack	Team: Squad #3	CCRB Case #: 201610050	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/03/2016 8:38 PM	Location of Incident: [REDACTED]	Precinct: 50	18 Mo. SOL 6/3/2018	EO SOL 6/3/2018	
Date/Time CV Reported Tue, 12/06/2016 5:38 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 12/06/2016 5:38 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Mayko Matos	13660	§ 87(2)(b)	050 PCT
2. POM John Labianca	14211	§ 87(2)(b)	050 PCT
3. SGT William Butler	03407	§ 87(2)(b)	050 PCT
4. POM Joseph Rodriguez	28899	§ 87(2)(b)	050 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Oscar Nieves	28446	§ 87(2)(b)	050 PCT
2. SGT Marlene Quinones	02192	§ 87(2)(b)	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM John Labianca	Abuse of Authority: At Bailey Avenue and 233rd Street in the Bronx, Police Officer John Labianca stopped the vehicle in which § 87(2)(b) was an occupant.	A . § 87(2)(g)
B . POM John Labianca	Abuse of Authority: At Bailey Avenue and 233rd Street in the Bronx, Police Officer John Labianca searched the vehicle in which § 87(2)(b) was an occupant.	B . § 87(2)(g)
C . POM Mayko Matos	Abuse of Authority: At Bailey Avenue and 233rd Street in the Bronx, Police Officer Mayko Matos frisked § 87(2)(b).	C . § 87(2)(g)
D . POM Mayko Matos	Abuse of Authority: At Bailey Avenue and 233rd Street in the Bronx, Police Officer Mayko Matos searched § 87(2)(b).	D . § 87(2)(g)
E . POM Mayko Matos	Discourtesy: At Bailey Avenue and 233rd Street in the Bronx, Police Officer Mayko Matos spoke discourteously to § 87(2)(b).	E . § 87(2)(g)
F . POM Mayko Matos	Force: At the 50th Precinct stationhouse, Police Officer Mayko Matos used physical force against § 87(2)(b).	F . § 87(2)(g)
G . POM John Labianca	Force: At the 50th Precinct stationhouse, Police Officer John Labianca used physical force against § 87(2)(b).	G . § 87(2)(g)
H . POM Joseph Rodriguez	Force: At the 50th Precinct stationhouse, Police Officer Joseph Rodriguez used physical force against § 87(2)(b).	H . § 87(2)(g)
I . SGT William Butler	Abuse of Authority: At the 50th Precinct stationhouse, Sergeant William Butler strip searched § 87(2)(b).	I . § 87(2)(g)
J . POM Mayko Matos	Abuse of Authority: At the 50th Precinct stationhouse, Police Officer Mayko Matos strip searched § 87(2)(b).	J . § 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
K . POM Mayko Matos	Discourtesy: At the 50th Precinct stationhouse, Police Officer Mayko Matos spoke discourteously to § 87(2)(b) .	K . § 87(2)(g)
L . POM John Labianca	Discourtesy: At the 50th Precinct stationhouse, Police Officer John Labianca spoke discourteously to § 87(2)(b) .	L . § 87(2)(g)
M . POM Joseph Rodriguez	Discourtesy: At the 50th Precinct stationhouse, Police Officer Joseph Rodriguez spoke discourteously to § 87(2)(b) .	M . § 87(2)(g)
N . SGT William Butler	Discourtesy: At the 50th Precinct stationhouse, Sergeant William Butler spoke discourteously to § 87(2)(b) .	N . § 87(2)(g)
O . POM Mayko Matos	Discourtesy: At the 50th Precinct stationhouse, Police Officer Mayko Matos gestured discourteously toward § 87(2)(b) .	O . § 87(2)(g)
P . SGT William Butler	Other: There is evidence suggesting Sergeant William Butler provided a false official statement in violation of PG 203-08.	P . § 87(2)(g)
Q . POM Mayko Matos	Other: There is evidence suggesting Police Officer Mayko Matos provided a false official statement in violation of PG 203-08.	Q . § 87(2)(g)
§ 87(4-b), § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint in person at the CCRB on December 6, 2016. On December 4, 2016, the investigator reported to the NYPD a potential threat against an MOS made by § 87(2)(b) prior to his interview. § 87(4-b), § 87(2)(g)

At approximately 8:30 pm on December 3, 2016, § 87(2)(b) was driving alone in the vicinity of 233rd Street and Bailey Avenue in the Bronx, when he was stopped by PO John Labianca and PO Mayko Matos of the 50th Precinct (**Allegation A**). § 87(2)(b) informed PO Labianca that his driver's license was suspended, and that a marijuana joint was in an ashtray near the driver's seat. PO Labianca ordered § 87(2)(b) out of the car, and proceeded to search the car (**Allegation B**) while § 87(2)(b) stood with PO Matos at the back of the vehicle. PO Matos patted § 87(2)(b) down, removed a cell phone from § 87(2)(b)'s pocket (**Allegation C and D**) and told § 87(2)(b) "Shut the fuck up" (**Allegation E**). § 87(2)(b) was placed under arrest for his suspended license and marijuana possession, and was transported in their RMP to the 50th Precinct stationhouse. After arriving at the stationhouse, PO Matos discovered a pill where § 87(2)(b) had been seated in the RMP. § 87(2)(b) was processed and placed in a cell, where PO Matos, PO Labianca, and PO Rodriguez restrained him (**Allegation F, G, and H**) and removed his jewelry after he refused to do so. After the jewelry was removed, while § 87(2)(b) was still being restrained, Sgt. William Butler of the 50th Precinct directed PO Matos to search § 87(2)(b) which he did by reaching into § 87(2)(b)'s underwear and running his hand along his genitals and buttocks (**Allegations I and J**). No additional contraband was found. During the strip search, all of the officers present allegedly told § 87(2)(b) to "stay the fuck still," and after the search PO Matos allegedly said to § 87(2)(b) "Everybody eats ass sometimes," and grabbed his own genitals when § 87(2)(b) asked for water (**Allegations K, L, M, N, and O**). § 87(2)(b) was transported to Central Booking early the next morning and was charged with criminal possession of a controlled substance, marijuana possession, and driving with a suspended license.

There is evidence that Sgt. Butler and PO Matos gave False Official Statements to the CCRB during their interviews in regards to this case (**Allegations P and Q**). On January 30, 2016, a spin-off was sent to IAB in regards to the potential False Official Statements under CCRB case number 201700690 (IAB Log C-17-56). § 87(4-b), § 87(2)(g)

The investigation consulted with APU in regards to the strip search allegation. This case is being submitted more than 90 days after the investigation began due to APU's inquiries regarding NYPD strip search training policy.

The investigation was unable to obtain video footage of this incident.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation due to an arrest and the report of a potential threat against an MOS.

- As of February 22, 2017, no Notice of Claim has been filed in connection with this incident. § 87(2)(b)'s criminal case for this arrest is currently open pending an appearance on § 87(2)(b).

- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Officer and Civilian CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint.
- In 13 years at the NYPD, Sgt. William Butler has been a subject of four previous complaints, containing 23 allegations against him. In CCRB case 201405184 a frisk allegation against Sgt. Butler was substantiated and he received Formalized Training from the NYPD. In CCRB case 200717516, frisk and search allegations against Sgt. Butler were substantiated, and the NYPD did not pursue disciplinary action against him.

§ 87(2)(g)
[REDACTED]
[REDACTED]

- In two years with the NYPD, PO Matos has been the subject of an unsubstantiated force allegation in CCRB case number 201603904. § 87(2)(g)
[REDACTED]
- In nine years with the NYPD, PO Labianca was the subject of an Exonerated threat of summons allegation in CCRB case number 201609996. § 87(4-b), § 87(2)(g)
[REDACTED]
[REDACTED]

Findings and Recommendations

Allegations Not Pleaded

- In his interview at the CCRB, PO Labianca (Board Review 02) stated that he first observed § 87(2)(b)'s vehicle and made the decision to pull him over. Therefore, the stop allegation is only being pleaded against PO Labianca and not against PO Matos.
- § 87(2)(b) and PO Matos both said that PO Matos conducted the frisk of § 87(2)(b) on the scene of the vehicle stop. While PO Labianca said that he conducted the frisk of § 87(2)(b) a preponderance of the evidence shows that PO Matos and not PO Labianca conducted the frisk, and therefore this allegation is being pleaded only against PO Matos and not against PO Labianca.

Subject Officer Identification

- § 87(2)(b) stated in his CCRB Interview (Board Review 01) that PO Labianca, PO Matos, and PO Rodriguez restrained him in the cell while removing his jewelry, after he refused to do so himself. He said that the same officers returned to the cell fifteen

minutes later and restrained him while a strip search was conducted. PO Labianca, PO Matos, and Sgt. Butler all said in their CCRB interviews (Board Review 02, Board Review 03, and Board Review 11) that § 87(2)(b) was searched in the cell immediately after his jewelry was removed, and that he was restrained continuously during that time. Therefore, given that officer testimony was consistent that § 87(2)(b) was restrained only once, one force allegation is being pleaded against each officer who restrained § 87(2)(b) and no second, separate force allegation has been pleaded against any of the officers. Furthermore, while PO Rodriguez said in his CCRB interview (Board Review 12) that he did not restrain § 87(2)(b) or interact with him at all, PO Labianca corroborated that PO Rodriguez helped restrain § 87(2)(b) during the search and the removal of the jewelry, and therefore a force allegation is also being pleaded against PO Rodriguez.

- § 87(2)(b) said that Sgt. Butler, who he identified by name based on his nameplate, was present for the entirety of the strip search, and PO Labianca said that Sgt. Butler ordered and supervised the strip search. Given that Sgt. Butler was the sergeant supervising the strip search, a strip search allegation is being pleaded against him, in addition to the strip search allegation pleaded against PO Matos for conducting the search.

Allegation A: Abuse of Authority – At Bailey Avenue and 233rd Street in the Bronx, Police Officer John Labianca stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B: Abuse of Authority – At Bailey Avenue and 233rd Street in the Bronx, Police Officer John Labianca searched the vehicle in which § 87(2)(b) was an occupant.

Allegation C: Abuse of Authority – At Bailey Avenue and 233rd Street in the Bronx, Police Officer Mayko Matos frisked § 87(2)(b)

Allegation D: Abuse of Authority – At Bailey Avenue and 233rd Street in the Bronx, Police Officer Mayko Matos searched § 87(2)(b)

In § 87(2)(b)'s December 6, 2016 statement at the CCRB (Board Review 01), he said that he was pulled over by PO Labianca and PO Matos for having a bent license. He denied that his license plate was bent. He had smoked marijuana earlier in the day but did not commit any moving violations prior to being stopped. When PO Labianca asked to see his license, § 87(2)(b) told him that his license was suspended, and that he had an unlit marijuana joint in an ashtray near the driver's seat. PO Labianca told § 87(2)(b) to exit the car, which he did. § 87(2)(b) said, "Sir, I was honest with you, I let you know that's what I have, if you want to search the vehicle, search it." PO Labianca told § 87(2)(b) that he was not under arrest and walked him to the back of his car, where he stood with PO Matos facing away from the car. § 87(2)(b) believed that PO Labianca was searching the car during this time, because he saw items strewn around the inside of the car when he was released, but he could not see PO Labianca search the car. § 87(2)(b) said that while PO Labianca searched the interior of the car, PO Matos frisked him by patting down his whole body. He also removed his cell phone, which was ringing, from his pants pocket.

In PO Labianca's statement to the CCRB (Board Review 02), he testified that he saw § 87(2)(b)'s car in the vicinity of Broadway and 233rd Street in the Bronx, and noticed that the license plate was bent in such a way as to prevent electronic plate readers from reading the plate. PO Labianca was the operator of the RMP and pulled § 87(2)(b) over on Bailey Avenue. § 87(2)(b) told PO Labianca through the driver's side window that his license was

suspended. PO Labianca noticed the odor of marijuana coming from the car, told § 87(2)(b) to step out of the car, and told him he was going into the car to look for marijuana, which § 87(2)(b) said was alright. PO Labianca patted down § 87(2)(b)'s clothes after § 87(2)(b) stepped out of the vehicle and before PO Labianca searched the car. PO Labianca looked inside the glove compartment, the center console, the trunk, and under the seats of the car. The reason for the search was the odor of marijuana coming from the car. No marijuana or contraband was found in the car. Following the search of the car, § 87(2)(b) was placed under arrest for driving with a suspended license. Neither PO Labianca nor PO Matos conducted a search of § 87(2)(b)'s pockets on the scene of the vehicle stop.

In PO Matos's CCRB interview (Board Review 03), he said that PO Labianca noticed § 87(2)(b)'s car and made the decision to pull it over. PO Matos did not recall what violation PO Labianca observed. PO Matos smelled marijuana on approaching § 87(2)(b)'s vehicle. PO Labianca later told PO Matos that he had observed marijuana in plain view inside the car. § 87(2)(b) was removed from the vehicle while PO Labianca searched the interior of the car, including the glove compartment, the center console, and under the seats. PO Matos said that he patted down the outside of § 87(2)(b)'s jacket and pants for weapons while he stood at the back of the car, but did not reach into § 87(2)(b)'s pockets at any point.

§ 87(2)(b)'s December 3, 2016 Arrest Report (Board Review 10), which was prepared by PO Labianca, noted that § 87(2)(b) "was observed driving with his front license plate bent so as to not be able to read the plate," and that PO Labianca "did observe a unlit marijuana cigarette in the center console of vehicle." § 87(2)(b) was charged with unlawful possession of marijuana.

Police may stop a vehicle based upon a reasonable suspicion that the driver or occupants of the vehicle have committed, are committing, or are about to commit a crime. People v. Taylor, 31 A.D.3d 1141 (2006) (Board Review 04). License plates shall be kept clean and in a condition so as to be easily readable. NY VTL § 402 (b) (Board Review 05). The odor of marijuana provides probable cause to search a car, including areas of the car's interior not in plain view. People v. Rivera, 127 A.D.3d 622 (2015) (Board Review 06). Officers may frisk and search a person if probable cause exists that they possess contraband. People v. Contant, 90 A.D.3d 779 (2011) (Board Review 07). Voluntary consent is a valid substitute for probable cause. People v. Barclay, 201 A.D.2d 952 (1994) (Board Review 08). Search incident to a lawful arrest is an exception to the warrant requirement for searches. Searches incident to arrest must be relatively contemporaneous with the arrest. People v. Hoffman, 135 AD2d 299 (1988) (Board Review 09).

§ 87(2)(g)
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§ 87(2)(g)

According to § 87(2)(b) he told PO Labianca that his license was suspended and there was marijuana in the car. While PO Labianca testified that he smelled rather than was told about the presence of marijuana, in either case he had probable cause to believe that § 87(2)(b) had

committed a crime and that the car contained contraband, and the concomitant right to search the interior of the vehicle. Additionally, § 87(2)(b) acknowledged giving express verbal consent to search his vehicle § 87(2)(g)

Allegation E: Discourtesy – At Bailey Avenue and 233rd Street in the Bronx, Police Officer Mayko Matos spoke discourteously to § 87(2)(b)

PO Matos said that while he stood at the back of the car, § 87(2)(b) called him a “traitor” because they were both Hispanic. PO Matos responded that “race had nothing to do with this,” but otherwise did not respond. PO Matos did not say “Shut the fuck up” or anything similar to § 87(2)(b) and did not use any profanity when speaking with § 87(2)(b).

§ 87(2)(g)

Allegation F: Force – At the 50th Precinct stationhouse, Police Officer Mayko Matos used physical force against § 87(2)(b)

Allegation H: Force – At the 50th Precinct stationhouse, Police Officer Joseph Rodriguez used physical force against § 87(2)(b)

Allegation J: Abuse of Authority – At the 50th Precinct stationhouse, Police Officer Mayko Matos strip searched § 87(2)(b)

pill did not belong to § 87(2)(b) was taken to a walled cell located behind the desk. He was the only prisoner in the cell. PO Matos and PO Labianca told him to give them his jewelry. § 87(2)(b) refused to give them his jewelry. PO Matos and PO Labianca said they were following procedure. § 87(2)(b) said, “Nah, I can’t do that.” PO Matos took hold of § 87(2)(b)’s right hand. PO Joseph § 87(2)(b) entered the cell and held § 87(2)(b) somewhere on his body. PO Labianca was holding § 87(2)(b) somewhere on his body. § 87(2)(b) was trying to pull his arms away from the officers. Sgt. Butler entered the cell. § 87(2)(b)’s arms were held away from his body while officers removed his jewelry, belt, shoe laces, jacket, leaving him in an undershirt. The officers left the cell.

Fifteen minutes later, PO Matos, PO Labianca, PO Rodriguez, and Sgt. Butler entered the cell. PO Labianca and PO Rodriguez began restraining § 87(2)(b) by holding his arms and body, and he moved his body to resist the officers holding onto him. PO Matos and the other officers said, “He boofed it,” meaning they thought § 87(2)(b) had secreted contraband in his anal cavity. PO Matos said, “Hold him, hold him.” § 87(2)(b) said, “You can’t do this.” PO Matos pulled down § 87(2)(b)’s pants and underwear and crouched behind him. PO Matos grabbed § 87(2)(b)’s exposed genitals with his hand, put his hand between § 87(2)(b)’s buttocks, and placed fingers “in § 87(2)(b)’s] asshole” § 87(4-b), § 87(2)(g). Nothing was found on § 87(2)(b)’s person. After the search, which lasted about two or three minutes, the officers left the cell.

PO Labianca testified that after § 87(2)(b) was placed in the RMP, he was shifting his body back and forth in the back seat. After they arrived at the 50th Precinct stationhouse, PO Labianca told PO Matos to search the back of the patrol car where § 87(2)(b) had been transported. PO Labianca searched § 87(2)(b)’s pockets at the desk. PO Labianca brought § 87(2)(b) to the cell and asked him to remove his jewelry, including necklaces, bracelets, and a wristwatch, because prisoners are not allowed to have anything they could use to hang themselves. § 87(2)(b) refused to remove the jewelry. PO Labianca tried to convince § 87(2)(b) but § 87(2)(b) refused and began to grow loud and agitated. Sgt. Butler also walked over to the cell area and told § 87(2)(b) that it was policy that he had to remove his jewelry, but § 87(2)(b) “did not want to hear it” and did not comply. PO Matos and PO Rodriguez came to over to the cell. Sgt. Butler took hold of one of § 87(2)(b)’s arms, while PO Matos took hold of the other arm. § 87(2)(b) was resisting by “tensing up” to prevent the removal of his jewelry. PO Labianca removed the jewelry while § 87(2)(b) was restrained.

PO Labianca stated that after § 87(2)(b)’s jewelry was removed, Sgt. Butler said, “Matos, search him.” PO Labianca took hold of the arm PO Matos had been holding. PO Matos pulled § 87(2)(b)’s pants down to his knees. His underwear remained up. PO Matos “put his thumbs into § 87(2)(b)’s] underwear and ran his fingers around his waistband,” and then “put his hand in his underwear to check underneath his testicles.” PO Matos ran his hand along § 87(2)(b)’s groin area, making physical contact with the skin of § 87(2)(b)’s testicles. The touching of the skin under the testicles was part of the search. PO Matos then “reached around behind just to do a swipe-up, just to make sure there was nothing in his butt crack.” By “swipe,” PO Labianca meant, “Taking your hand and making it into a blade and just going up in between the cheeks.” PO Matos’ hands were underneath § 87(2)(b)’s underwear. PO Labianca could see PO Matos during the search. § 87(2)(b)’s pants were down for less than

a minute. § 87(2)(b) was allowed to get dressed. Nothing was found in the search. After the search, PO Matos told PO Labianca that a pill had been found in the back seat of the patrol car where § 87(2)(b) had been seated, and PO Matos showed him the loose pill.

Asked about the reason for this search (which he referred to as a “check,”) PO Labianca said that normally they would just have a prisoner strip completely nude and squat down, but “because § 87(2)(b) was so combative, we had to do the check because he wasn’t complying with anything we wanted to get done.” PO Labianca added that, “there have been instances where people do hide and tuck things underneath, and the weight of the testicles will actually just keep it in place [when they squat], so we just had to do a quick check to make sure there was nothing under there.”

In Sgt. Butler’s statement to the CCRB (Board Review 11), he said that he entered § 87(2)(b) s information behind the desk while § 87(2)(b) was searched at the desk and PO Matos searched the back of the RMP in which § 87(2)(b) had been transported. PO Labianca took § 87(2)(b) to the cell while Sgt. Butler finished entering arrest information at the desk. Sgt. Butler heard § 87(2)(b) yelling from the cell that he did not want to give up his jewelry, and walked to the cell to talk to § 87(2)(b) and try to calm him down. PO Labianca was inside the cell with § 87(2)(b) trying to convince him to remove his jewelry. § 87(2)(b) was physically holding onto his jewelry, and was agitated and raising his voice. Sgt. Butler told him that the jewelry would be safe and that he would get a receipt for it. Officers then held § 87(2)(b) s arms and removed § 87(2)(b) s jewelry from his body. While § 87(2)(b) s jewelry was being removed, PO Matos entered the cell and showed Sgt. Butler a pill, saying that § 87(2)(b) had dropped it in the RMP.

After seeing the pill, Sgt. Butler told the officers to “check” § 87(2)(b) again to make sure he did not have any more contraband. While § 87(2)(b) continued to be held still, PO Matos patted down the outside of § 87(2)(b) s pants and his waistband. PO Matos ran his fingers around the outside of § 87(2)(b) s pants’ waistband, but did not put his finger or hand inside or underneath the waistband or at all inside § 87(2)(b) s pants. PO Matos frisked the entire outside of § 87(2)(b) s clothing, including the crotch and buttocks area of the outside of his pants. Sgt. Butler was “right next” to PO Matos and was observing him during the search. § 87(2)(b) was trying to move his arms and get away. § 87(2)(b) s pants were sagging but not past his crotch area, and his underwear were slightly exposed. PO Matos patted down the outside of the underwear but did not reach into the underwear.

PO Matos said that after § 87(2)(b) was placed in the RMP, he was “wiggling” in the back seat. When they arrived at the stationhouse, PO Labianca led § 87(2)(b) out of the RMP, while PO Matos looked in the back seat of the RMP to see if “anything had been left behind.” He found a circular pill in plain view between the cushion and backrest of the rear passenger seat. PO Matos knew that the pill belonged to § 87(2)(b) because the RMP had previously been checked multiple times that day. PO Matos went inside the stationhouse, where § 87(2)(b) was acting in a loud and aggressive manner while standing at the desk. PO Matos pulled PO Labianca aside and gave him the pill.

PO Matos and PO Labianca brought § 87(2)(b) to the cell, where they asked him to remove his jewelry and he refused. PO Matos and PO Labianca tried to explain why the jewelry had to be

removed and that he would get a voucher, but § 87(2)(b) still refused. PO Matos and PO Labianca then entered the cell. § 87(2)(b) backed away from them and tensed up his muscles as they tried to remove the jewelry. He was clenching his arms towards his body. PO Matos and PO Labianca restrained § 87(2)(b) and removed the jewelry. § 87(2)(b) was irate but PO Matos was not sure what he said. Sgt. Butler entered the cell to “make sure that nobody got hurt.” PO Matos noticed that § 87(2)(b)'s pants were sitting very low, so that the “top of his crack” could be seen. Part of his underwear was also visible above the line of his pants. PO Matos also noticed that § 87(2)(b)'s hand smelled “like behind” when he was holding his arm. PO Matos told Sgt. Butler about the pill and the odor, while still holding onto § 87(2)(b). Sgt. Butler asked “if we needed a strip search.” PO Matos said, “No, let’s just check him for contraband.” Sgt. Butler said, “Alright, don’t do a strip search, just check him real quick, make sure there’s nothing in there that’s not supposed to be there.” PO Matos patted down the outside of § 87(2)(b)'s jeans, but did not feel anything. He then reached with one hand into § 87(2)(b)'s pants, but remaining outside of § 87(2)(b)'s underwear. PO Matos was still holding onto § 87(2)(b) with his other hand. § 87(2)(b) was not tensing up during the search, but was still being restrained by PO Labianca and PO Matos. PO Matos ran his hand along § 87(2)(b)'s genital and “rear” area over the layer of the underwear. This “check” lasted approximately two or three seconds, and PO Matos did not feel anything raising his suspicion that § 87(2)(b) had secreted contraband on his person. After the search, PO Matos told Sgt. Butler he was confident there was no further contraband on § 87(2)(b) and officers left the cell. PO Matos stated that he did not reach into § 87(2)(b)'s underwear because he did not feel anything through the underwear, saying, “You can’t go digging around.”

PO Rodriguez (Board Review 12) said that he saw PO Matos and § 87(2)(b) in the cell, arguing about § 87(2)(b) removing his jewelry. PO Rodriguez walked over to the cell, but left after a minute without interacting with the complainant, because he could see that PO Matos had control of the situation. He did not witness any strip search conducted on § 87(2)(b).

A strip search is any search in which an individual’s undergarments (e.g., bra, underwear, etc.) and/or private areas are exposed or in which an individual’s clothing is removed, lifted up, or pulled down to expose undergarments or private areas. In order to achieve a balance between the privacy and personal dignity concerns of arrestees, it should not be necessary to touch the subject’s body during a strip search, except for an examination of the hair. Strip searches may only be conducted with the knowledge and approval of the arresting officer’s immediate supervisor. PG 208-05 (Board Review 13). A strip search requires the arrestee to disrobe so that a police officer can visually inspect the person's body. A strip search must be founded on a reasonable suspicion that the arrestee is concealing evidence underneath clothing and the search must be conducted in a reasonable manner. People v. Hall, 10 N.Y.3d 303 (2008) (Board Review 14).

When a member of the service must gain compliance, control, or custody of an uncooperative subject, apply no more than the reasonable force necessary to gain control. PG 221-02 (Board Review 15). Items that are dangerous to life, may facilitate escape, or may be used to damage Department property will be removed from a subject at the stationhouse following arrest. PG 208-03 (Board Review 16).

The investigation consulted with APU in regards to the strip search allegation.

§ 87(2)(b) acknowledged that he refused to remove his jewelry and was resisting the officers' attempts to do so, and he alleged no force besides the officers holding him still while removing the jewelry. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[illegible]

PO Labianca said that while § 87(2)(b) was being restrained, he said to PO Rodriguez, “You’re my cousin, how could you do this to me,” to which PO Rodriguez replied that he was an officer doing his job and was not § 87(2)(b)’s cousin. PO Labianca said that after the strip search, PO Matos fingerprinted § 87(2)(b) and that § 87(2)(b) was berating PO Matos regarding the fact that he was Hispanic during this time. PO Labianca said that no officer present, including himself, used any profanity towards § 87(2)(b) and that PO Matos never grabbed his genitals when § 87(2)(b) asked for water.

PO Butler said that while § 87(2)(b) was restrained, Sgt. Butler was telling him that his jewelry was safe and that he would receive a receipt for it. Sgt. Butler did not use any profanity when speaking with § 87(2)(b) nor did he hear PO Matos or any other officer do so. Sgt. Butler did not recall PO Matos grabbing his genitals in response to a request for a drink of water from § 87(2)(b).

All other officers interviewed denied hearing any officer use profanity with § 87(2)(b) or seeing PO Matos make the alleged discourteous gesture.

§ 87(2)(g) § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Allegation P: Other Misconduct – There is evidence suggesting Sergeant William Butler provided a false official statement in violation of Patrol Guide section 203-08.

Allegation Q: Other Misconduct – There is evidence suggesting Police Officer Mayko Matos provided a false official statement in violation of Patrol Guide section 203-08.

The intentional making of a false official statement is prohibited, including during a Civilian Complaint Review Board interview. PG 203-08 (Board Review 17).

§ 87(2)(g) § 87(2)(b)
§ 87(2)(b) the search involved pulling down § 87(2)(b)’s pants and making direct physical contact with § 87(2)(b)’s genitals and buttocks. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) Sgt. Butler and PO Matos both testified that the search of § 87(2)(b) in the cell was a “pat” or a “frisk,” which did not involve pulling down his pants or any skin-to-skin contact with his groin or buttocks, though their stories diverged with respect to whether the search was an external frisk of § 87(2)(b)’s pants, or a “frisk” of his underwear conducted without pulling down or removing the pants. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(g)

PO Matos testified that a strip search is defined by the removal of a prisoner's clothing, and that "you can't go digging around" in an arrestee's underwear, while Sgt. Butler similarly testified that a strip search is characterized by "pulling down or pulling up" an article of clothing. § 87(2)(g)

both were interviewed by the CCRB within eight weeks after the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Squad: 3

Investigator:

Signature

Nathaniel Flack

Print

Date

Squad Leader:

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	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date